

Your City, Seattle

Executive Department — Office of Women's Rights
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Because of the Initiative 13 ballot issue this year, the Office of Women's Rights has received many inquiries about Seattle's anti-discrimination Ordinances, sexual orientation protections, and the services provided by the Office. By state law, the OWR can neither promote nor oppose any ballot issue and the Office has no position on Initiative 13. We have prepared this information sheet to answer factual questions.

CITY OF SEATTLE - LEGAL PROTECTIONS AGAINST SEXUAL ORIENTATION DISCRIMINATION

ORDINANCES ENACTED. The Fair Employment Practices Ordinance 102562, as amended, was enacted in 1973. The Open Housing Ordinance 104839, as amended, was enacted in late 1975. These Ordinances prohibit sexual orientation discrimination in housing and employment opportunities and discrimination based on a number of other factors: race, sex, marital status, creed, religion, color, ancestry, national origin, political ideology, handicap and age.

WHO'S COVERED? The Fair Employment Practices Ordinance protects only City and private sector employees who work in Seattle. Exempt employees - those not covered by the Ordinance - are people who work outside of Seattle, those who work at establishments which have fewer than four employees, and all non-City governmental employees including county, state and federal workers. Seattle Public School teachers are governed by the state and are not covered by the Ordinance.

WHAT IS SEXUAL ORIENTATION? Sexual orientation is defined by Ordinance to mean "...[M]ale or female heterosexuality, bi-sexuality or homosexuality, and includes a person's attitudes, preferences, beliefs and practices pertaining to sex, but shall not include conduct which is unlawful under city, state or federal law." (Section 2(22), Open Housing Ordinance).

The City Ordinances protect all persons from discrimination based upon assumptions about any person's sexual orientation. Sometimes people are "assumed" or suspected of being gay when they actually are not. In employment situations, such assumed orientation discrimination often involves non-traditional jobs for both men and women. A male nurse may be suspected of being homosexual or a female carpenter may be considered to be lesbian. In housing, two heterosexual males who apply for an apartment together may be believed to be homosexual, and, as a result, may be denied rental. It is illegal to discriminate against anyone because of his/her assumed or actual sexual orientation.

WHAT ABOUT ILLEGAL SEXUAL CONDUCT? The Ordinances do not legalize sexual conduct on the job or in public. The final clause of Section 2(22) of the Open Housing Ordinance reads as follows: "...[B]ut [sexual orientation] shall not include conduct which is unlawful under city, state or federal law." This means that illegal sexual acts remain illegal. Examples of such illegal conduct would be laws against prostitution, indecent exposure, child molestation, and laws which protect minors.

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CAN EMPLOYERS AND LANDLORDS SET STANDARDS OF CONDUCT? Yes. Employers and landlords have the full right to set reasonable standards and rules of conduct necessary to maintain their business or protect their property. The rules, however, must be the same for all workers and tenants, they must be equally applied, and they must not discriminate against any group protected by the City Ordinances.

FORCED HIRING. The Fair Employment Practices Ordinance does not force employers to hire gay persons because they are gay. The Ordinance is based on the principle that a person's sexual orientation (or race, religion, sex and a number of other factors) is not related to an individual's ability to be a good worker. Nothing in the law prevents the selection of qualified employees. If discrimination is found to have occurred, the OWR may require that a person be hired if he/she is qualified for the job.

ARE THERE HIRING GOALS/QUOTAS FOR GAYS? No. The OWR has never required affirmative action hiring goals based on sexual orientation. The Office does not consider such goals to be appropriate for several reasons:

- Sexual orientation goals would mean an invasion of everyone's privacy. Use of goals would mean that employers would be able to legitimately ask workers what their sexual orientation is. This would constitute an invasion of everyone's privacy.

- Homosexuals have not been excluded from large categories of jobs. Hiring goals are used to bring into the employer's workforce members of groups (usually racial minorities and women) which are underrepresented due to past exclusion from certain job categories and professions. Recent studies indicate that, homosexuals, as a group, are not readily identifiable and, therefore, are already well-integrated into most professions.*

WHAT PROBLEMS DO GAY PEOPLE FACE? The experience of the Office in enforcing the Ordinances indicates that discrimination against homosexuals occurs primarily when their orientation is actually discovered, and, after they are already on the job or have obtained housing. The problems faced by gay people seem to be centered around the fear of losing jobs or homes should their orientation be discovered.

Following are descriptions of unfair actions upon which sexual orientation complaints have been lodged where the Office made a finding that discrimination occurred or where resolution was reached - by written settlement agreement or by use of informal resolution techniques:

A tenant was given an eviction notice because a person of the same sex was residing with the tenant; An employee was fired because of after-hours community activity involving gay rights; An employee was fired when a supervisor found out he was homosexual; An employee was fired for associating with a gay person; An employee was fired when he expressed his beliefs about homosexuality; A job applicant was asked questions about marital status and sexual orientation and was subsequently not hired.

* Oregon Taskforce on Sexual Preference Preliminary Report, State of Oregon, Department of Human Resources, 1977.
Sexual Preference Study, City of Tulsa, Oklahoma, Community Relations Commission, 1976.

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HOW ARE COMPLAINTS RESOLVED?

Number of complaints filed. From 1973 to June 30, 1978 fifty-nine sexual orientation complaints were lodged. Sexual orientation complaints represent only 10% of the total number of complaints (566) received by OWR. Forty-one or 69% of all sexual orientation complaints allege unfair employment discrimination while 18 or 31% allege housing discrimination. Males file sexual orientation complaints more frequently than do females. Thirty-eight or 64% of complaints were lodged by men while only 21 or 36% were made by women.

Complaint processing. After a complaint is filed, an impartial investigation is conducted which includes interviewing witnesses, reviewing documents and talking with the Charging Party (the person who files the complaint) and the Respondent (the person or organization charged with discrimination).

OWR has a significant backlog of complaints - complaints filed but not yet assigned to investigation - because of lack of adequate staff to handle the large volume of complaints received. By October 1978, the OWR Enforcement Unit had no clerical staff and only four employees - one unit coordinator, one paralegal intake worker and two investigators.

On June 30, 1978 the total backlog numbered 130 cases, 20 of which were sexual orientation complaints. Nine sexual orientation complaints were undergoing investigation and two were at the conciliation stage - findings that discrimination occurred had been issued and an agreement to provide remedy and correct unfair practices was being pursued.

Number of complaints founded/unfounded. Not all complaints are found to have merit. A total of 18 sexual orientation determinations have been issued: 12 No Reasonable Cause determinations - no reasonable belief that a violation of either the Fair Employment or Open Housing Ordinance occurred - and six Reasonable Cause determinations - a reasonable belief that one of these Ordinances was violated.

Remedies secured. Remedies to correct unfair practices have been secured for nine sexual orientation cases, including five formal agreements and four informal case resolutions. Of the formal agreements, two were Pre-Determination Settlements - a satisfactory settlement was reached before any merit determination was issued - and three were Conciliation Agreements - a settlement was reached after a determination of Reasonable Cause was made. The four informal case resolutions were achieved by use of OWR staff conciliation/mediation skills to effect a satisfactory resolution of the dispute without a formal agreement and before any merit determination was made.

Typical remedies. Remedies for the Charging Party can include being hired or rehired, promotion, back pay and damages, and seniority, in employment cases; rent refunds or credits, and reinstatement to or offer of tenancy, in housing cases. To correct unfair practices, human relations training may be instituted and personnel policies changed. Employment applications and job interview processes may be reviewed to insure that only permissible criteria are utilized. Respondents can be ordered to stop unlawful practices. OWR can monitor to make sure that they do so.